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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,251	12/21/2001	Peter V. Radatti	CSI-01	6643
7590	09/23/2005			
Peter V. Radatti, Esquire CyberSoft, Inc 1508 Butler Pike Conshocken, PA 19428			EXAMINER	PYZOCHA, MICHAEL J
			ART UNIT	PAPER NUMBER
			2137	
DATE MAILED: 09/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/032,251	RADATTI, PETER V.	
	Examiner Michael Pyzocha	Art Unit 2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 December 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-24 are pending.

Drawings

2. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 5 recites the limitation "said groups" in line 6. There is insufficient antecedent basis for this limitation in

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the claim. Claim 5, and claims from which 5 depends, only recite grouping the data file which does not mean there will be more than one group.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4, 6, 8, 11, 13-21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Angelo (US 5944821).

As per claims 1 and 16-19, Angelo discloses providing a hash code table of a client; providing a client state code of a client; and comparing said client state code to said hash code table (see column 12 lines 24-42 and abstract).

As per claims 2-3 and 20, Angelo discloses a secure hash code table (see the abstract).

As per claims 4 and 15, Angelo discloses at least one compiled client hash value (see column 12 lines 24-42 and abstract where applications are compiled and these are then hashed making them compiled client hash values).

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As per claim 6, Angelo discloses generating the hash table using at least one exemplary system (see column 12 lines 24-42).

As per claims 8, 11, 21 and 23, Angelo discloses reporting the results of the comparison and initiating a client status mechanism (see column 12 lines 24-42 and abstract).

As per claims 12-13, Angelo discloses generating a client state code using at least one compiled client hash value (see column 12 lines 24-42).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Angelo as applied to claim 3 above, and further in view of Crockett et al (US 5619644).

As per claim 5 Angelo fails to disclose grouping the secure system data file and extracting the modal hash value.

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However, Crockett teaches grouping files (see column 3 line 59 through column 4 line 22) and Official Notice is taken regarding extracting the modal hash value.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Crockett's teaching to group Angelo's files and to extract the modal hash value.

Motivation to do so would have been to recover from a disaster and to use the most common value among the group.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Angelo as applied to claim 3 above, and further in view of IEEE.

As per claim 7, Angelo fails to disclose using a baseline to generate the table.

However, IEEE teaches the use of a baseline (see page 87).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use IEEE's baseline to generate Angelo's table.

Motivation to do so would have been to have an agreed upon product (see page 87).

11. Claims 9 and 22 rejected under 35 U.S.C. 103(a) as being unpatentable over Angelo.

As per claims 9 and 22, Angelo fails to disclose logging the results of the comparison.

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However, Official Notice is taken that at the time of the invention it would have been obvious to one of ordinary skill in the art to log Angelo's comparison results.

Motivation to do so would have been to have a record of the comparison.

12. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Angelo as applied to claim 1 above, and further in view of Adya et al (US 20020188605).

As per claim 10, Angelo fails to disclose securing a client in lock down mode.

However, Adya et al teach such a limitation (see paragraphs 144-146).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Sowa et al. to include further comprising the step of securing a system in lock down mode.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Sowa et al, by the teaching of Adya et al to include further comprising the step of securing a system in lock down mode because it provides for database security and file authentication.

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13. Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Angelo as applied to claims 1 and 19 above, and further in view of Pascucci et al (US 5463735).

As per claims 12 and 24, Angelo fails to disclose initiating an Auto Restore component.

However, Pascucci et al teaches an Auto Restore component (see column 72 lines 47-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Pascucci et al's auto restore feature in the system of Angelo.

Motivation to do so would have been to prevent commands from being issued until after all regularly time scheduled commands have been updated.

Double Patenting

14. Applicant is advised that should claims 18 and 19 be found allowable, claim 19 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

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15. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

16. Claims 1-3, 8-11, 13-23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-15, 18, 20, 22-24 of copending Application No. 10/032252. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the instant application are substantially the same as the claims in the cited application and it would have been obvious at the time of the invention to one of ordinary skill in the art to use the claims in 10/032252 to secure, maintain, monitor, and control computer networks and clients. Motivation to do so would have been to protect a network.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

17. Claims 4-7, 12 and 24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-15, 18, 20, 22-24 of copending Application No. 10/032252 in view of Angelo, Crocket et al, IEEE, and Pascucci et al as applied in the above claims.

This is a provisional obviousness-type double patenting rejection.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Levine et al, Maturana et al, Miyazaki, and Sowa et al teach using state information store in a hash table.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be

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reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP



**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**